

#16
April 22, 2003

Financial Crimes Enforcement Network
Attention: Section 352 – Jewelry Dealer Regulation
P.O. Box 39
Vienna, Virginia 22183-0039

Via email to regcomments@fincen.treas.gov

The National Pawnbrokers Association is pleased to have the opportunity to respond to your February 21, 2003 notice of proposed rule-making concerning Anti-Money Laundering Programs for Dealers in Precious Metals, Stones, or Jewels. As you may know, the NPA is the national trade association for the pawn industry.

Pawn loans are short-term extensions of credit secured by pledges of personal property. The average dollar amount of pawn loans nationwide is less than \$100. As a result, the potential to launder large sums of money through pawn stores is extremely low, because it would take a multitude of \$100 transactions to move significant funds through the industry. In addition, because law enforcement receives regular reports from pawnbrokers about each transaction, law enforcement is already in a good position to detect emerging patterns of unusual customer activity.

Members of our industry range from sole proprietorships and small family-run businesses, to multi-store operations within a single state, as well as multi-state operations. Presently, there are approximately 12,000 pawn stores located throughout the United States.

Pawn stores regularly accept items of jewelry and other precious metals as loan collateral. The relatively small percentage of items that are not redeemed at the contractual maturity date are sold to retail customers or to precious metal refineries.

Like members of the banking industry, pawnbrokers are licensed and/or regulated by state and local authorities. In many cases, the same state agency licenses and regulates depository institutions as well as the pawn industry. Also like many other providers of consumer credit, the pawn industry has state and locally promulgated record-keeping responsibilities, which are subject to regular inspection by regulatory authorities. Most of these requirements have been in place across the nation for decades.

However, unlike regulations governing most other financial institutions, the vast majority of pawnbrokers are required by state and/or local laws to report each and every transaction to law enforcement. This means that, unlike other Bank Secrecy Act responsibilities, there is no threshold amount for reportable pawn loan transactions. Many of these reports are made directly to local law enforcement or to independent data management services that have been retained to gather, maintain and disseminate transaction data on law enforcement's behalf.

Many pawnbrokers offer diverse consumer financial services products, including the wiring of funds, check-cashing and cash-advance loans. With that in mind, the NPA advised its membership last summer to begin formulating anti-money laundering programs to comply with Section 352 of the Patriot Act with an eye toward October 2002, the original effective date for Section 352 for our industry. As a result, those pawn operations that offer broader ranges of consumer financial products have already established anti-money laundering programs for those services, and also will be subject to the final rule governing anti-money laundering compliance programs for pawnbrokers. Due to our association's efforts to educate pawnbrokers about Section 352, we are confident that our members will have effective anti-money laundering programs in place for the full range of their respective product offerings.

Due to the extent and history of the record-keeping and reporting requirements that pawnbrokers have been operating under for years, the pawn industry is distinct from the class of specialized dealers in precious metals, gems and stones that your Notice of Proposed Rule Making describes as “not generally regulated as financial institutions.” In addition, state laws relating to pawn brokers are full-fledged licensing and supervisory laws and regulations – in marked contrast to those primarily consumer protection laws applicable to jewelry dealers in most states. Indeed, judging from the estimated number of potential record-keepers noted in the Notice of Proposed Rule Making, it is possible that staff drafting the notice did not consider us to be part of this industry. (As requested, the NPA’s comments on the Paperwork Reduction Act issues raised in the Notice of Proposed Rule Making will be made in a separate comment to Treasury.)

Compliance with the Patriot Act adds to the already extensive regulatory burdens imposed on pawnbrokers at the state and local levels and also to existing federal laws for loan collateral such as firearms. This brings us to the specific concerns and suggestions we have about the proposed regulation for dealers in precious metals, stones, and jewels.

1. Pawnbrokers should be required to have only one comprehensive, federal anti-money laundering compliance program in place. Because we anticipate that pawnbrokers will be covered by a more specific pawnbroker rule under Section 352 – and because the local and state requirements for record-keeping and reporting of each transaction that have been in place for years will remain – we suggest that the final rule for dealers in precious metals, gems, and stones explicitly provide that compliance with the pawnbroker rule is satisfactory compliance for both the pawnbroker and dealers in precious metals rules. Assuming that the final rule so provides, pawnbrokers will still conduct risk assessments and institute compliance programs that cover transactions involving precious metals, gems, and jewelry as part of their larger Section 352

compliance responsibilities for their industry. This will allow our members to have a single comprehensive compliance program instead of duplicating efforts by producing separate plans for any sub-categories of transactions that pawnbrokers conduct.

2. In the alternative, because the pawn industry will be regulated by both the forthcoming Patriot Act rules for pawnbrokers as well as the state and local rules described above, we believe an exemption from the final precious metals dealer rule would be appropriate for pawnbrokers.

Either of these approaches will greatly assist our members, and particularly the smaller companies, in meeting their full compliance responsibilities in the least burdensome way.

We certainly appreciate the opportunity to present our industry's views regarding compliance with the USA Patriot Act and Bank Secrecy Act and look forward to further participation in this important work. Please do not hesitate to contact me if you require additional information about any issues discussed in the Association's comment, or any other issues related to implementing the USA Patriot Act. My direct line is 972-240-1300.

Sincerely,

Morgan Jones
Government Relations Committee
National Pawnbrokers Association

